

FINAL STATEMENT OF REASONS

Adoption of sections 584 through 584.10 – Participation in Risk Pools

Update of Initial Statement Of Reasons: There have been no changes in the applicable laws or facts, or to the effect of the proposed regulations, from those described in the Initial Statement of Reasons.

Local Mandate Determination: The proposed regulation does not impose any mandate on local agencies or school districts.

Summary And Response To Comments Received During The Public Notice Period Of July 11, 2003 Through August 25, 2003, the Public Notice Period of January 2, 2004 Through February 16, 2004 and the Public Notice Period of July 24, 2004 through August 7, 2004: CalPERS received five letters regarding the proposed addition of Article 7.5 to Title 2 of the California Code of Regulations during the first public notice period, one comment during the second public notice period and no comments during the third public notice period. Copies of these letters, along with copies of CalPERS' written responses, are included as part of the rulemaking file.

Two of the letters received by CalPERS were from Larry Kinard, Fire Chief of San Miguel Consolidated Fire Protection District, and Steve Kramer, President of Board of Directors of Alpine Fire Protection District. They sent to CalPERS identical letters requesting that an impact and justification study be performed prior to the adoption of the regulations. CalPERS had already communicated to employers on several occasions the impact pooling will have and the justification for pooling. CalPERS provided a written response to both Mr. Kinard and Mr. Kramer that contained information regarding the impact and justification for pooling.

Stan Kleinman, Finance and Management Services Director of City of Oxnard, and Chris DeGabriele, General Manager of North Marin Water District, both sent a letter requesting that CalPERS modifies Section 581.4 of the proposed regulations by reducing the 100 active member threshold that will be used to establish mandated participation into risk pools. CalPERS provided a written response to both Mr. Kleinman and Mr. DeGabriele explaining why the threshold had to be set at 100 active members.

Another letter received by CalPERS was from the California professional firefighter's association in which minor suggestions to the regulations were proposed. Two of the suggestions resulted from a misunderstanding of the regulations. CalPERS staff met with two representatives of the California professions firefighter association to help them eliminate the misunderstanding. The last suggestion made was evaluated by CalPERS staff, and it was determined that the original proposed language was appropriate and that no changes were necessary.

The last letter received by CalPERS during the second public notice period was from Robert McCleary, Executive Director of the Contra Costa Transportation Authority. In his letter, Mr. McCleary expressed his support for the regulations and the creation of risk pools but also expressed his concerns regarding the ability for their agency to make additional contributions within the risk pool structure in order to protect the full retirement benefits of their employees in the event his agency sunsets in the near future. CalPERS provided a written response to Mr. McCleary stating that the implementation of pooling will not in any way limit agencies from sending additional contributions to CalPERS to properly fund benefits. CalPERS Board policies on actuarial funding and amortization will allow for the proper treatment of additional contributions within the risk pool structure.

Summary And Response To Comments Received At The Public Hearings On October 15, 2003 and February 18, 2004: CalPERS received one comment during the October 15, 2003 public hearing. (See Exhibit 4, Hearing Transcript #1, page 29, line 20 through page 45, line 18.) Steve Harman, human resource director of City of Livermore, first expressed his support toward the regulations and then expressed various concerns. His concerns were regarding the initial impact of risk pools on employer contribution rates, the impact of larger plans joining risk pools, the variability in the number of industrial disability retirements across public agencies and the 100 active member threshold that will be used to set mandated participation into risk pools. All his concerns were answered verbally by Ron Seeling during the public hearing. A written response was also sent to Mr. Harman. A copy of the response is included as part of the rulemaking file.

CalPERS received one comment during the February 18, 2004 public hearing. (See Hearing Transcript #2, page 48, line 15 through page 55, line 23.) During that hearing, David Murray, a representative for the Contra Costa Regional Transit Authority, addressed the committee to express his support for the regulations and the creation of risk pools but to also express his concerns regarding the ability for their agency to make additional contributions in order to protect the full retirement benefits of their employees in the event his agency sunsets in the near future.

Ron Seeling stated to the committee members that the implementation of pooling will not in any way limit agencies from sending additional contributions to CalPERS to properly fund benefits. Ron Seeling also stated that the regulations did not need to include any language to that effect. Board policies on actuarial funding and amortization will allow for the proper treatment of additional contributions within the risk pool structure.

Alternatives Determination: CalPERS has determined that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.